

Amendments to the Drawings

The attached replacement sheets include changes to Figs. 1, 2, and 3 to reflect the correct reference numerals that coincide with the description in the specification sheet.

Attachment: Replacement Sheets 1 and 2

REMARKS/ARGUMENTS

In the September 26, 2005 Office Action, the Examiner rejected claims 22-27 pending in the application. This Response amends claims 22 and 25 for further consideration. After entry of the foregoing amendments, claims 22-27 (2 independent claims; 7 total claims) remain pending in the application. Reconsideration is respectfully requested.

Applicant has corrected drawing pages 1-2 containing FIGS. 1-3 to correctly reflect the reference numbers identified in the specification and hereby requests that the replacement sheets attached hereto for drawing pages 1-2 be substituted for Applicant's originally submitted drawing pages 1-2.

The Examiner first rejected claims 22-25 and 27 under 35 U.S.C. §102(b) as being anticipated by Johnston, U.S. Patent No. 5,482,165 (hereinafter "Johnston"). In particular, the Examiner stated that Johnson teaches a frame for separating excavated material having a base with a front wall (19), two side walls (15, 17) and two horizontal side bars (horizontal reinforcing bars 49 seen between wheels 23 and fig. 2 and in phantom in fig. 1 near 21 and 27) extending backward from opposite sides of a bottom of the front wall. The Examiner also contends that Johnson discloses at least one vertical bar member extending vertically upward from the top of each of the horizontal side bars (walls) at an end of the horizontal side bars opposite the front wall (vertical bars 49 near 21 in fig. 2) and a grate (61, 63) extending from a top of the vertical bar members to a top of the front wall such that the grate forms less than a ninety degree angle relative to a ground surface (Fig. 2).

In addition, with respect to claim 23, the Examiner contends that Johnson further teaches at least one support bar (near 35 in fig. 2) extending from a top of each of the horizontal side bars to a mid-length of the grate on opposite sides of the grate. The Examiner also argues that with respect to claims 24 and 27, Johnson discloses at least one flange (55 or motor structure near 87) extending downward from a bottom of the grate. The Examiner also states that functional language and/or intended use phrasing is given little if any patentable weight in the claims and that the structure cited above by the Examiner in Johnston are capable of facilitating engagement with the bucket of a loader/backhoe.

Finally, the Examiner states that the claim language "from the top" is interpreted as extending from an area near the top and that therefore a bar extending "from a top" is not regarded as required to be directly physically connected to the "top". Applicant respectfully traverses this rejection.

Johnston generally discloses a mobile screening apparatus for gravel and other aggregates which includes a three sided box that is adapted to rest on the ground. A vibrating screen is located above the box in a tilted or sloped condition so that gravel deposited on the screen is in a fluidized condition. The three sided "box 10 comprises an upright rear wall 15 and upright front wall 17, and an upright side wall 19." In addition, "the top end of the box 10 is open to accommodate falling aggregate particles passing through the overhead screen assembly 14" and "one side of the box is open to gain access to fine gravel particles deposited in the box" with the open side of the box designated by number 21. (See column 3, lines 25-32). Even if rear wall 15 and front wall 17 were interpreted as two side walls and side wall 19 was interpreted as a front wall, Johnston still fails to disclose each and every element of Applicant's amended independent claims. In particular, Johnston fails to disclose a grate that is rigidly secured to and extending from a top of the vertical bar members to a top of the front wall so that the grate forms less than a ninety degree angle relative to a ground surface. Instead, Johnston discloses four heavy duty coil springs 77 trained between frame 57 and upper edges of the box. The screen assembly is resiliently supported above the box so that the screen assembly can be easily vibrated in a generally vertical direction by a rotary counterweight system that is driven by a hydraulic motor that is fastened to the underside of the frame. In contrast, Applicant's grate is not resiliently supported above the grate because a separate screen member is used to define the size of the fine particles that are passed through the grate. Accordingly, in that Johnston fails to disclose each and every element of Applicant's amended independent claims, Johnson cannot anticipate Applicant's claimed invention.

Claims 22-27 stand rejected under 35 U.S.C. §102(b) as being anticipated by Kirksey, U.S. Patent No. 1,338,227 (hereinafter "Kirksey"). In particular, the Examiner states that Kirksey teaches a frame for separating excavated material comprising a base having a front wall (side of 22 with gates 24), two side walls (side of 22 with support 10) and two horizontal side

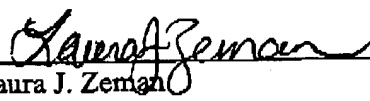
bars (1) extending backward from opposite sides of a bottom of the front wall, at least one vertical bar member extending vertically upward from a top of each of the horizontal side bars/walls at an end of the horizontal side bars opposite the front wall (vertical bars near 10), and a grate (5 and/or 12, 13) extending from a top of the vertical bar members to a top of the front wall such that the grate forms less than a ninety degree angle relative to a ground surface (Fig. 1). Furthermore, with respect to claims 23 and 26, the Examiner states that Kirksey further teaches at least one support bar (middle vertical bar near 10) extending from a top of each of the horizontal side bars/walls to a mid-length of the grate on opposite sides of the grate. The Examiner also contends that Kirksey discloses at least one flange (13) extending downward from a bottom of the grate and that the flanges in Kirksey are capable of facilitating engagement with the bucket of a loader/backhoe. Applicant's respectfully traverse this rejection.

Kirksey generally discloses an apparatus for hydraulic placer mining which functions to save the very fine, flaky, oxidized, tarnished and corroded gold and other accompanying metals that are washed out of sluices under the force of a great volume of water. In Kirksey, reference numeral 22 "is a large tank, preferably of metal, mounted within the outer frame and under the inner screen frame and projecting beyond the upper ends of both said frames sufficiently to enable a person to get inside of said tank, if necessary." (See column 2, lines 17-22). Although the Examiner identifies walls of the tank 22 to disclose Applicant's claimed front walls and side walls, the horizontal side bars and vertical bar member claimed by Applicant's extend backward from opposite sides of the bottom of the front wall and vertically upward from the top of the horizontal side bars/walls, respectively. In Kirksey, the members identified as horizontal side bars and vertical bar members are part of a frame which contains and completely encloses tank 22. In addition, Kirksey fails to disclose a grate that is rigidly secured to, and which extends from, a top of the bar members to the top of the front wall so that the grate forms less than a ninety degree angle relative to a ground surface. Accordingly, in that Kirksey fails to disclose each and every element of Applicant's claimed invention, Kirksey cannot anticipate Applicant's claimed invention.

In view of the foregoing, Applicant respectfully submits that all of the pending claims fully comply with 35 U.S.C. §112 and are allowable over the prior art of record.

Reconsideration of the application and allowance of all pending claims is earnestly solicited. Should the Examiner wish to discuss any of the above in greater detail or deem that further amendments should be made to improve the form of the claims, then the Examiner is invited to telephone the undersigned at the Examiner's convenience.

Respectfully submitted,

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